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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,	Case No. 3:15-cr-00061-HDM-WGC
Plaintiff,	
v.	ORDER
EDWARD SMITH,	
Defendant.	

The defendant has filed a motion to vacate pursuant to 28 U.S.C. § 2255 (ECF No. 935). The government shall file a response to the motion on or before August 9, 2021. The defendant shall file any reply on or before September 8, 2021.

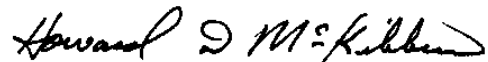
The defendant has also moved for appointment of counsel (ECF No. 934). There is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir.1993). The decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984). However, counsel must be appointed if the complexities of the case are such that denial of counsel would amount to a denial of due process, and where the petitioner is a person of such limited

1 education as to be incapable of fairly presenting his claims. See
2 *Chaney*, 801 F.2d at 1196; see also *Hawkins v. Bennett*, 423 F.2d
3 948 (8th Cir.1970). Here, the petition appears sufficiently clear
4 in presenting the issues that the defendant wishes to raise, and
5 the legal issues are not particularly complex. Therefore, counsel
6 is not justified. The motion for appointment of counsel (ECF No.
7 934) is therefore DENIED.

8 Finally, the defendant has submitted an application for leave
9 to proceed *in forma pauperis* (ECF No. 933). As there is no fee to
10 file a motion to vacate under § 2255, the application for pauper
11 status is DENIED AS MOOT.

12 IT IS SO ORDERED.

13 DATED: This 8th day of June, 2021.

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UNITED STATES DISTRICT JUDGE
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